

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

Caitlin Smith,

Plaintiff,

v.

LVNV Funding, LLC,

Defendant.

Case No. _____

COMPLAINT

Plaintiff Caitlin Smith ("Plaintiff"), by and through her undersigned counsel, and in support of her claims against LVNV Funding, LLC ("Defendant"), hereby respectfully avers as follows:

PARTIES

1. Plaintiff is a resident of the State of Delaware. Plaintiff's address is 2204 ½ Harrison Street, Wilmington, DE 19809.
2. Plaintiff may be served through the office of her counsel, Matthew M. Carucci, Esq., 521 West Street, Wilmington, Delaware, 19801.
3. Defendant is a Delaware Limited Liability Company. Defendant's address for service of process is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.

JURISDICTION & VENUE

4. Plaintiff is bringing suit under the Fair Debt Collection Practices Act (the "Act"), 15 U.S.C. § 1601 *et seq.* Jurisdiction is proper in this Court pursuant to § 813(d) of the Act (15 U.S.C. § 1692k), which states, "An action to enforce any liability created

by this title may be brought in any appropriate United States district court without regard to the amount in controversy”

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because Defendant is a Delaware Limited Liability Company and is subject to personal jurisdiction within the State of Delaware and this District.

BACKGROUND

6. On or about 19 December 2006, Defendant filed a state court action in the Court of Common Pleas for the State of Delaware, New Castle County, C.A. No. 2006-12-408 (the “State Court Action”). A copy of the complaint is attached at Exhibit A.

7. In the State Court Action, Defendant alleged that it was a creditor of Plaintiff, and that Plaintiff owed Defendant \$7,539.56 “for goods sold and delivered and/or services rendered and/or a revolving account stated between” the Parties.

8. Attached to the copy of the Complaint served upon Plaintiff was a typed note discussing arrangements for paying “the debt,” and referring to the law firm representing Defendant as “attorneys in the practice of debt collection.” (see Exhibit A)

9. Plaintiff answered the Complaint on or about 26 January 2007, alleging that the debt was not hers, and that she was the victim of identity theft.

10. On or about 21 February 2007, after discussions and negotiations between counsel for the Parties, Defendant agreed that the account should be closed and the State Court Action dismissed. Correspondence to that effect is located at Exhibit B.

11. On or about 22 February 2007, Defendant voluntarily dismissed its Complaint. The Notice of Dismissal is located at Exhibit C.

12. As of the filing of the Notice of Dismissal, the alleged debt against Plaintiff was extinguished (to the extent it was ever valid), and no debt was owed by Plaintiff to Defendant.

13. Subsequently, Defendant, by and through its agent for debt collection purposes, contacted Plaintiff and demanded that Plaintiff satisfy the debt to Defendant. Defendant's agent, via telephone, made reference to the same account number and amount due as was claimed in the State Court Action.

14. Plaintiff's counsel immediately sent correspondence to Defendant's agent, stating that there was no debt owed due to the resolution of the State Court Action, and demanding that all collection attempts cease immediately. Said correspondence is located at Exhibit D.

15. Since Plaintiff's counsel sent such correspondence, Defendant has contacted Plaintiff via telephone at least fifteen (15) times. Each and every such contact is regarding the debt alleged to be owed in, and resolved by, the State Court Action.

16. The dates and times of each such telephone contact by Defendant are as follows:

- a. 10 May 2007, 11:57 a.m.
- b. 10 May 2007, 2:08 p.m.
- c. 15 May 2007, 11:42 a.m.
- d. 15 May 2007, 3:42 p.m.
- e. 24 May 2007, 9:57 a.m.
- f. 24 May 2007, 11:11 a.m.
- g. 24 May 2007, 12:24 p.m.

- h. 30 May 2007, 3:08 p.m.
- i. 5 June 2007, 12:36 p.m.
- j. 11 June 2007, 2:48 p.m.
- k. 14 June 2007, 10:37 a.m.
- l. 14 June 2007, 12:36 p.m.
- m. 14 June 2007, 2:22 p.m.
- n. 19 June 2007, 11:14 a.m.
- o. 19 June 2007, 2:39 p.m.

17. Each call was an automated call. When Plaintiff's telephone was answered, a recording directed Plaintiff to call a specific 1-800 number. When Plaintiff called the number, she was informed that the call was from Defendant, and that Defendant was attempting to collect a debt.

18. At the time of each and every contact, the debt alleged by Defendant as due and owing was, in fact, not due, nor did said debt even exist.

19. Defendant is a debt collector as defined in § 803 of the Act (15 U.S.C. § 1692a).

20. The Act, at § 813 (15 U.S.C. § 1692k), provides for civil liability in the event a debt collector violates or fails to comply with any provision of the Act. Said civil liability provides for (1) actual damages, (2) additional damages of up to \$1,000 per violation or lack of compliance, (3) reasonable attorney's fees.

COUNT 1
VIOLATION OF § 805 OF THE ACT

21. Paragraphs 1-20 are realleged as if fully set forth herein.

22. Section 805 of the Act (15 U.S.C. § 1692c), states, in pertinent part:

(a) COMMUNICATION WITH THE CONSUMER GENERALLY. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt-

...

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and as knowledge of, or can readily ascertain, such attorney's name and address

23. Plaintiff has not given consent for Defendant to communicate with her regarding any debt.

24. No Court has given such permission to Defendant.

25. Defendant knew Plaintiff was represented by an attorney, because Plaintiff's counsel (1) represented Plaintiff in the State Court Action, (2) corresponded with Defendant and Defendant's counsel during the State Court Action, and (3) corresponded with Defendant's debt collection agent after the State Court Action.

26. Defendant knew, and could readily ascertain, Plaintiff's counsel's name and address. Counsel included such information on every correspondence. See, for example, Exhibit D. Further, Defendant's counsel sent documents to Plaintiff's counsel, thus proving Defendant had ready access to such information. (See Exhibit C)

27. Despite the foregoing, Defendant made at least fifteen (15) telephone calls directly to Plaintiff on the dates listed above.

28. Each telephone call placed by Defendant to Plaintiff was a violation of the Act's § 805.

29. Defendant has violated or failed to comply with § 805 of the Act in fifteen (15) separate instances.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory Damages at the rate of \$1,000 per violation, reasonable attorney's fees as authorized by the Act, the costs of this Action, and other such relief the Court deems appropriate.

COUNT 2
VIOLATION OF § 806 OF THE ACT

30. Paragraphs 1-29 are realleged as if fully set forth herein.

31. Section 806 of the Act (15 U.S.C. § 1692d), states, in pertinent part:

A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

...

(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with the intent to annoy, abuse, or harass any person at the called number.

(6) Except as provided in section 804, the placement of telephone calls without meaningful disclosure of the caller's identity.

32. Defendant engaged in conduct for which the natural consequence was harassment. Defendant caused fifteen (15) telephone calls to be placed to Plaintiff, often with two (2) or three (3) calls made in a single day.

33. Said calls were meant to annoy, abuse or harass Plaintiff.

34. Further, the telephone calls did not make any disclosure of the caller's identity. Instead, Plaintiff was directed to call a 1-800 number. When Plaintiff did so, she was informed that the caller was Defendant, and that they were trying to collect a debt from Plaintiff.

35. Defendant has violated § 806 of the Act in fifteen (15) separate instances.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory Damages at the rate of \$1,000 per violation, reasonable attorney's fees as authorized by the Act, the costs of this Action, and other such relief the Court deems appropriate.

COUNT 3
VIOLATION OF § 807 OF THE ACT

36. Paragraphs 1-35 are realleged as if fully set forth herein.

37. Section 807 of the Act (15 U.S.C. § 1692e), states, in pertinent part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

...

(2) The false representation of –

(A) The character, amount, or legal status of any debt; or

....

38. Defendant made false, deceptive and misleading representations to Plaintiff in connection with the debt that was the subject of the State Court Action.

39. Each telephone contact Defendant made with Plaintiff was for the purpose of collecting said debt.

40. Each time Defendant made such telephone contact with Plaintiff, there was no debt to be collected, and the debt at issue had been the subject of a lawsuit for which the parties obtained a final resolution.

41. Defendant, in attempting to collect a debt that had been resolved by the State Court Action, made false representations as to the (1) character of the debt (i.e., one

that is due and owing), (2) the amount of the debt (i.e., any value above \$0.00), and (3) the legal status of the debt (i.e., resolved fully and finally, against Defendant, with prejudice).


42. Defendant has violated § 807 of the Act in fifteen (15) separate instances.

WHEREFORE, Plaintiff demands judgment against Defendant for compensatory Damages at the rate of \$1,000 per violation, reasonable attorney's fees as authorized by the Act, the costs of this Action, and other such relief the Court deems appropriate.

43. In sum, Plaintiff demands judgment and the award of damages as follows:

- a. Pursuant to § 813(a)(2) of the Act, statutory damages in the amount of \$1,000 per violation, for each and every violation detailed in this Complaint;
- b. Pursuant to § 813(a)(3) of the Act, the costs of this action;
- c. Pursuant to § 813(a)(3) of the Act, Plaintiff's reasonable attorney's fees; and
- d. Any other relief the Court may deem appropriate.

12 July 2007



Matthew M. Carucci (DE I.D. 4529)
521 West Street
Wilmington, DE 19801
P: 302.654.5083
F: 302.654.5084
mcarucci@mmclegal.com

Attorney for Plaintiff

EXHIBIT A

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

LVNV FUNDING, LLC ASSIGNEE OF
HOUSEHOLD BANK (SB) NA/RHODES
15 SOUTH MAIN STREET
GREENVILLE SC 29601

PLAINTIFF

VS.

CAITLIN WALLS
2204 1 2 HARRISON AVE
WILMINGTON DE 19809

DEFENDANT(S)

TO THE SPECIAL PROCESS SERVER:

YOU ARE COMMANDED:

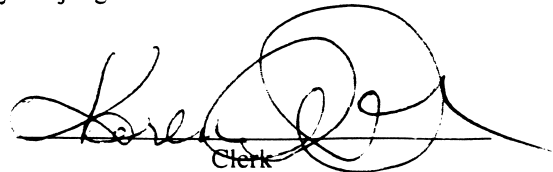
To Summon the above named defendant(s) and serve upon said defendant(s) a copy of this summons and complaint.

TO THE ABOVE NAMED DEFENDANT(S):

Within twenty (20) days after you receive this Summons, excluding the day you receive it, you must file an Answer to the attached Complaint if you want to deny the allegations. The original of your Answer must be filed with the Clerk's Office of the COURT OF COMMON PLEAS FOR NEW CASTLE, 500 N. KING ST-STE 1610 WILMINGTON, DE 19801, and must include proof that a copy of the Answer was served on the plaintiff or his attorney; Neal J. Levitsky, Esquire, 919 N. Market Street, P.O. Box 2323, Suite 1300, Wilmington, DE 19899, (302) 656-2555, Outside Wilmington Area 1-800-678-0303.

Failure to file an Answer denying the allegations will result in a judgment against you and action may be taken by the plaintiff or his attorney to satisfy the judgment.

DATED: 12-22-06


Clerk

NEAL J. LEVITSKY, ESQUIRE
VOIPOFF & ABRAMSON, L.L.P.
ATTORNEY IN THE PRACTICE
OF DEBT COLLECTION

419 NORTH MARKET STREET
SUITE 1300
P.O. BOX 2323
WILMINGTON, DE 19899-2323
(302) 656-2555
OUTSIDE WILMINGTON AREA:
1-800-678-0303

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

LVNV FUNDING, LLC ASSIGNEE OF
HOUSEHOLD BANK (SB) NA/RHODES
15 SOUTH MAIN STREET
GREENVILLE SC 29601

PLAINTIFF

VS.

CAITLIN WALLS
2204 I 2 HARRISON AVE
WILMINGTON DE 19809

DEFENDANT(S)

2006 -12 - 8

CIVIL ACTION NO.
NONARBITRATION

COMPLAINT

1. Plaintiff, sues Defendant(s) for the sum of \$7,539.56 representing the balance due and owing for goods sold and delivered and/or services rendered and/or a revolving account stated between Plaintiff and Defendant(s).

WHEREFORE, Plaintiff demands judgment against Defendant(s) for the sum of \$7,539.56 with interest at 8.00 % per annum from 09/01/2004 until date of judgment and thereafter at judgment rate of interest, plus court cost.

WOLPOFF & ABRAMSON, L.L.P.

By:

NEAL J. LEVITSKY, ESQUIRE (No. 2092)
Fox Rothschild LLP
Citizens Bank Center
919 N. Market Street, Suite 1300
P.O. Box 2323
Wilmington, Delaware 19899-2323
(302) 656-2555
Outside Wilmington Area:
1-800-678-0303
Attorney for Plaintiff

NEAL J. LEVITSKY, ESQUIRE
WOLPOFF & ABRAMSON, L.L.P.
ATTORNEY IN THE PRACTICE
OF DEBT COLLECTION

419 NORTH MARKET STREET
SUITE 1300
P.O. BOX 2323
WILMINGTON, DE 19899-2323
(302) 656-2555
OUTSIDE WILMINGTON AREA:
1-800-678-0303

FILED
JUL 19 11 56 AM '06
NEW CASTLE COUNTY DE

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

LVNV FUNDING, LLC ASSIGNEE OF
HOUSEHOLD BANK (SB) NA/RHODES
15 SOUTH MAIN STREET
GREENVILLE SC 29601

PLAINTIFF

VS.

CAITLIN WALLS
2204 I 2 HARRISON AVE
WILMINGTON DE 19809

DEFENDANT(S)

2006 -12 -408

CIVIL ACTION NO.

NONARBITRATION

CERTIFICATE OF VALUE

I, Neal J. Levitsky, Esquire, attorney for Plaintiff hereby certify in good faith at this time in my opinion that the sum of damages of the Plaintiff is not in excess of \$15,000.00, exclusive of costs and interest.

By: 

Attorney for Plaintiff

DATED: 11/18/2006

NEAL J. LEVITSKY, ESQUIRE
WOLPOFF & ABRAMSON, L.L.P.
ATTORNEY IN THE PRACTICE
OF DEBT COLLECTION

419 NORTH MARKET STREET
SUITE 1300
P.O. BOX 2323
WILMINGTON, DE 19899-2323
302.654-7444
OUTSIDE WILMINGTON AREA:
1-800-678-4303

PLEASE NOTE:

If you owe the money and would like to arrange to pay the debt, please call our office prior to the court date. This may avoid the necessity of you appearing in court. The telephone number is **1-800-830-2793**.

When calling, give the Paralegal your W&A file number which is found on the bottom of the court papers.

Thank you for your cooperation.

W&A FILE NUMBER:



WOLPOFF & ABRAMSON, L.L.P.

Attorneys in the Practice of Debt Collection

(SPS:Local)

EXHIBIT B

MAIN OFFICE
TWO IRVINGTON CENTRE
702 KING FARM BLVD., ROCKVILLE, MD 20850

REGIONAL OFFICES

905 JUDICIAL DR., BLDG. A-5, FAIRFAX, VA 22030
1 WEST CARY STREET, RICHMOND, VA 23220
12 GREENWICH RD., VIRGINIA BEACH, VA 23462
101 N. MARKET ST., STE. 1300, WILMINGTON, DE 19899
ALLEY BANK BLDG., BOX 1226, CLARKSBURG, WV 26302
60 TRINDLE ROAD, STE. 300, CAMP HILL, PA 17011
1 GRANT ST., STE. 4300, PITTSBURGH, PA 15219
632 ROADSIDE DR., STE. 265, AGOURA HILLS, CA 91301
500 HIGH POINTE BLVD., STE. 250, NOVI, MI 48375
10 CANAL VIEW BLVD., ROCHESTER, NY 14623
215 N. O'CONNOR BLVD., STE. 1060, LAS COLINAS, TX 75039
100 SOUTHWEST FREEWAY, STE. 3300, HOUSTON, TX 77027
11 SOLEDAD ST., STE. 300, SAN ANTONIO, TX 78205
80 GLASTONBURY BLVD., GLASTONBURY, CT 06033
201 PEACHTREE STREET, STE. 1717, ATLANTA, GA 30361
21 CARLSON PKWY., STE. 303, MINNETONKA, MN 55305
19 WHITNEY AVE., 2ND FLOOR, HOLYOKE, MA 01040
101 CUMBERLAND PLAZA, 3RD FLOOR, WOONSOCKET, RI 02895
143 S. ULSTER ST., STE. 920, DENVER, CO 80237
55 TOWN CENTER ROAD, STE. 1002, BOCA RATON, FL 33486
100 SEVENTH AVE., STE. 2100, SEATTLE, WA 98101

LAW OFFICES
WOLPOFF & ABRAMSON, L.L.P.
Attorneys in the Practice of Debt Collection
(A National Collection Attorney Network Firm)

TWO IRVINGTON CENTRE
702 KING FARM BLVD.
ROCKVILLE, MD 20850-5775

240-386-3900

OUTSIDE WASHINGTON, D.C. METROPOLITAN AREA
(TOLL FREE)
1-800-678-0303

FACSIMILE 240-386-3111

PLEASE DIRECT ALL INQUIRIES TO THE MAIN OFFICE

AFFILIATED FIRM LOCATIONS (NOT REGIONAL)
OFFICES OF WOLPOFF & ABRAMSON, L.L.P.

BIRMINGHAM, ALABAMA
ANCHORAGE, ALASKA
PHOENIX, ARIZONA
CABOT, ARKANSAS
HONOLULU, HAWAII
BOISE, IDAHO
CHICAGO, ILLINOIS
MERRILLVILLE, INDIANA
KANSAS CITY, KANSAS
LEXINGTON, KENTUCKY
METAIRIE, LOUISIANA
ST. LOUIS, MISSOURI
GREAT FALLS, MONTANA
OMAHA, NEBRASKA
LAS VEGAS, NEVADA
MANCHESTER, NEW HAMPSHIRE
CEDAR KNOX, NEW JERSEY
RALEIGH, NORTH CAROLINA
FARGO, NORTH DAKOTA
CLEVELAND, OHIO
OKLAHOMA CITY, OKLAHOMA
EUGENE, OREGON
COLUMBIA, SOUTH CAROLINA
KNOXVILLE, TENNESSEE
SANDY, UTAH
MILWAUKEE, WISCONSIN
RAWLINS, WYOMING

* The National Collection
Attorney Network is an
affiliation of separate law firms

W&A Hours of Operation
8 a.m.-6 p.m. ET M-F

BERNARD C. JOHN, ESQUIRE (PA)

February 21, 2007

Matthew Carucci, Esquire
2300 Pennsylvania Avenue
Suite 4B
Wilmington, DE 19806

Re: LVNV Funding, LLC
Caitlin Walls
Our File No: 166370228
Account No: 7012134103433148

Dear Mr. Carucci:

I reviewed the above-referenced account with my client. They agreed to close the account upon review of the documents you provided without the execution of an affidavit of fraud. I have requested that our local counsel move to dismiss the matter in the New Castle County Court 2006 12 408. Please contact my office with any questions.

Very truly yours,

WOLPOFF & ABRAMSON, L.L.P.

BY:


Bernard C. John

BCJ/hms

N:\BXJ-HMS\2007\02_FEBRUARY\21\WALLS - LTR.DOC

EXHIBIT C

IN THE COURT OF COMMON PLEAS OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

LVNV FUNDING LLC

Plaintiff,

v.

CAITLYNN WALLS

Defendant

:
:
:
:
:
:
:
:
:

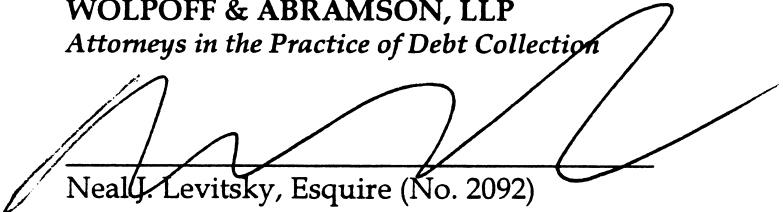
Civil Action No. 2006-12-408

NOTICE OF DISMISSAL

To: Clerk of the Court

Please dismiss the above action.

WOLPOFF & ABRAMSON, LLP
Attorneys in the Practice of Debt Collection



Neal J. Levitsky, Esquire (No. 2092)
919 N. Market Street
Suite 1300
Wilmington, Delaware 19801
(302) 654-7444

Attorneys for Plaintiffs
LVNV Funding LLC

Dated: February 22, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the attached pleading was served upon the following individual by First Class Mail, postage prepaid this 22nd day of February, 2007:

Matthew Carucci, Esquire
2300 Pennsylvania Avenue
Suite 4B
Wilmington, DE 19806



Neal J. Levitsky, Esquire

EXHIBIT D

MATTHEW M. CARUCCI

Attorney at Law
2300 Pennsylvania Avenue
Suite 4B
Wilmington, Delaware 19806

(302) 654 - 5083
FAX (302) 654 - 5084

FAX TRANSMISSION

TO: Capital Management Services

716.852.1620

FROM: Matthew Carucci

PAGES INCLUDING COVER SHEET 3

COMMENTS:

Re: Your file # 0285162434

Dear Sir or Madam,

I represent Ms. Caitlin Walls, alleged debtor in the above-noted file. As per the enclosed Notice of Dismissal, the above-noted file has been resolved in its entirety. Please do not send any further demand correspondence to my client or to this office (either written or oral). Any such demands will be considered a violation of applicable statute, and Ms. Walls will take all necessary measures to enforce her rights.

If you have any questions or comments, you may contact this office to discuss the dismissal and conclusion of this matter.

Thank you.

Very Truly Yours,


Matthew M. Carucci, Esq.

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Smith, Caitlin L.

DEFENDANTS

LVNV Funding, LLC

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF New Castle, Delaware
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT New Castle, Delaware

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM ADDRESS AND TELEPHONE NUMBER)

Matthew M. Carucci, Esq. (DE I.D. 4529)
521 West Street
Wilmington, DE 19801
P: 302.654.5083
F: 302.654.5084

ATTORNEYS (IF KNOWN)
Not known

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

| | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|---|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgement <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc Security Act | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks or Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions |

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed From State Court
☐ 3 Remanded From Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred From another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

15 U.S.C. § 1692 (Fair Debt Collection Practices Act). Plaintiff brings suit based on multiple violations of FDCPA by Defendant, for each of which Defendant incurs statutory damages.

VII. REQUESTED IN COMPLAINT

DEMAND \$ 45,000 + costs + fees

CHECK YES only if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See Instructions)

JUDGE _____

DOCKET NUMBER _____

DATE

7/12/07

SIGNATURE OF ATTORNEY OF RECORD

Matthew Carucci

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07-437


ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

JUL 12 2007

(Date forms issued)


(Signature of Party or their Representative)

Stephen DiSabatino
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action

RG
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DISTRICT OF DELAWARE
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